

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

IN RE PAYMENT CARD INTERCHANGE
FEE and MERCHANT-DISCOUNT
ANTITRUST LITIGATION

MASTER FILE NO. 1:05-md-1720-JG-JO

This Document Relates to All Class Actions

NOTICE OF MOTION FOR LEAVE TO WITHDRAW AS COUNSEL

PLEASE TAKE NOTICE that upon the accompanying Declaration of Peter C. Herrick, Defendants Capital One Financial Corporation, Capital One, N.A., Capital One Bank (USA), N.A., and their predecessor entities, Capital One Bank and Capital One, F.S.B. (collectively, the “Capital One Defendants”) will move this Court for an Order granting the withdrawal of Peter C. Herrick’s appearance as counsel for the Capital One Defendants and his removal from the Court’s electronic filing notification system for this action. O’Melveny & Myers LLP shall remain counsel of record for the Capital One Defendants in this action.

Dated: New York, New York
April 15, 2010

O’MELVENY & MYERS LLP

By: 

Peter C. Herrick
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DECLARATION OF PETER C. HERRICK

I, PETER C. HERRICK, pursuant to 28 U.S.C. § 1746(2), declare and state as follows:

1. I am an attorney in the law firm of O'Melveny & Myers LLP, counsel for Defendants Capital One Financial Corporation, Capital One, N.A., Capital One Bank (USA), N.A., and their predecessor entities, Capital One Bank and Capital One, F.S.B. (collectively, the "Capital One Defendants") in this action. I submit this Declaration in support of the Capital One Defendants' Motion for Leave to Withdraw as Counsel. All of the facts set forth herein are known to me personally, and if called as a witness, I could and would testify competently thereto.

2. I will be leaving the law firm of O'Melveny & Myers LLP effective April 23, 2010, to serve in the United States government. No delay in this action will result from my withdrawal as counsel.

3. O'Melveny & Myers LLP shall remain counsel of record for the Capital One Defendants in this action.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 15, 2010
New York, New York

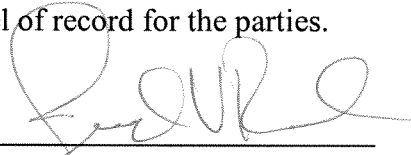
Respectfully submitted,

By 

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CERTIFICATE OF SERVICE

I, Jacqueline Roeder, hereby certify that on April 15, 2010, I caused a true and correct copy of the Notice of Motion for Leave to Withdraw as Counsel to be served electronically through ECF and LexisNexis File & Serve on counsel of record for the parties.



Jacqueline Roeder

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